HOUSE OF REPRESENTATIVES - FLOOR VERSION
STATE OF OKLAHOMA
1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1027

By: Luttrell of the House
and
Coleman of the Senate

COMMITTEE SUBSTITUTE
[ amusements and sports - gaming exemption - Gaming
Compact Supplement - pools - term - fees - content
- procedures - funds - conduct - participation -
codification - effective date ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 3A O.S. 2021, Section 262, is amended to read as follows:

Section 262. A. If at least four Indian tribes enter into the model tribal-state compact set forth in Section 281 of this title, and such compacts are approved by the Secretary of the Interior and notice of such approval is published in the Federal Register, the Oklahoma Horse Racing Commission ("Commission") shall license organization licensees which are licensed pursuant to Section 205.2 of this title to conduct authorized gaming as that term is defined
by this act pursuant to this act utilizing gaming machines or
devices authorized by this act subject to the limitations of
subsection C of this section. No fair association or organization
licensed pursuant to Section 208.2 of this title or a city, town or
municipality incorporated or otherwise, or an instrumentality
thereof, may conduct authorized gaming as that term is defined by
this act.

Notwithstanding the provisions of Sections 941 through 988 of
Title 21 of the Oklahoma Statutes, the conducting of and
participation in gaming in accordance with the provisions of this
act or the model compact set forth in Section 281 of this title is
lawful and shall not be subject to any criminal penalties. Provided
further, a licensed manufacturer or distributor licensed pursuant to
this act may manufacture, exhibit or store as a lawful activity any
machines or devices which are capable of being used to conduct the
following types of gaming:

1. Gaming authorized by the State-Tribal Gaming Act; or
2. Other gaming which may be lawfully conducted by an Indian
tribe in this state.

B. Except for Christmas Day, authorized gaming may only be
conducted by an organization licensee on days when the licensee is
either conducting live racing or is accepting wagers on simulcast
races at the licensee's racing facilities. Authorized gaming may
only be conducted by organization licensees at enclosure locations
where live racing is conducted. Under no circumstances shall authorized gaming be conducted by an organization licensee at any facility outside the organization licensee's racing enclosure. No person who would not be eligible to be a patron of a pari-mutuel system of wagering pursuant to the provisions of subsection B of Section 208.4 of this title shall be admitted into any area of a facility when authorized games are played nor be permitted to operate, or obtain a prize from, or in connection with, the operation of any authorized game, directly or indirectly.

C. In order to encourage the growth, sustenance and development of live horse racing in this state and of the state's agriculture and horse industries, the Commission is hereby authorized to issue licenses to conduct authorized gaming to no more than three organization licensees operating racetrack locations at which horse race meetings with pari-mutuel wagering, as authorized by the Commission pursuant to the provisions of this title, occurred in calendar year 2001, as follows:

1. An organization licensee operating a racetrack location at which an organization licensee is licensed to conduct a race meeting pursuant to the provisions of Section 205.2 of this title located in a county with a population exceeding six hundred thousand (600,000) persons, according to the most recent Federal Decennial Census, shall be licensed to operate not more than six hundred fifty (650) player terminals in any year. Beginning with the third year after
an organization licensee is licensed pursuant to this paragraph to
operate such player terminals, such licensee may be licensed to
operate an additional fifty (50) player terminals. Beginning with
the fifth year after an organization licensee is licensed pursuant
to this paragraph to operate such player terminals, such licensee
may be licensed to operate a further additional fifty (50) player
terminals; and

2. Two organization licensees operating racetrack locations at
which the organization licensees are licensed to conduct race
meetings pursuant to the provisions of Section 205.2 of this title
located in counties with populations not exceeding four hundred
thousand (400,000) persons, according to the most recent Federal
Decennial Census, may each be licensed to operate not more than two
hundred fifty (250) player terminals in any year.

Subject to the limitations on the number of player terminals
permitted to each organization licensee, an organization licensee
may utilize electronic amusement games as defined in this act,
electronic bonanza-style bingo games as defined in this act and
electronic instant bingo games as defined in this act, and any type
of gaming machine or device that is specifically allowed by law and
that an Indian tribe in this state is authorized to utilize pursuant
to a compact entered into between the state and the tribe in
accordance with the provisions of the Indian Gaming Regulatory Act
and any other machine or device that an Indian tribe in this state...
is lawfully permitted to operate pursuant to the Indian Gaming
Regulatory Act, referred to collectively as "authorized games". An
organization licensee's utilization of such machines or devices
shall be subject to the regulatory control and supervision of the
Commission; provided, the Commission shall have no role in oversight
and regulation of gaming conducted by a tribe subject to a compact.
The Commission shall promulgate rules to regulate the operation and
use of authorized gaming by organization licensees. In promulgating
such rules, the Commission shall consider the provisions of any
compact which authorizes electronic gaming which is specifically
authorized by law by an Indian tribe. For the purpose of paragraphs
1 and 2 of this subsection, the number of player terminals in an
authorized game that permits multiple players shall be determined by
the maximum number of players that can participate in that game at
any given time; provided, however, that nothing in this act
prohibits the linking of player terminals for progressive jackpots,
so long as the limitations on the number of permitted player
terminals at each organization licensee are not exceeded. Each
organization licensee shall keep a record of, and shall report at
least quarterly to the Oklahoma Horse Racing Commission, the number
of games authorized by this section utilized in the organization
licensee's facility, by the name or type of each and its identifying
number.
D. No zoning or other local ordinance may be adopted or amended by a political subdivision where an organization licensee conducts live horse racing with the intent to restrict or prohibit an organization licensee's right to conduct authorized gaming at such location.

E. For purposes of this act, "adjusted gross revenues" means the total receipts received by an organization licensee from the play of all authorized gaming minus all monetary payouts.

F. The Oklahoma Horse Racing Commission shall promulgate rules to regulate, implement and enforce the provisions of this act with regard to the conduct of authorized gaming by organization licensees; provided, regulation and oversight of games covered by a compact and operated by an Indian tribe shall be conducted solely pursuant to the requirements of the compact.

G. If an organization licensee operates or attempts to operate more player terminals which offer authorized games than it is authorized to offer to the public by this act or the terms of its license, upon written notice from the Commission, such activity shall cease forthwith. Such activity shall constitute a basis upon which the Commission may suspend or revoke the licensee's license. The Commission shall promulgate any rules and regulations necessary to enforce the provisions of this subsection.

H. This act is game-specific and shall not be construed to allow the operation of any other form of gaming unless specifically
allowed by this act. This act shall not permit the operation of
slot machines, house-banked card games, house-banked table games
involving dice or roulette wheels, or games where winners are
determined by wagering on the outcome of a sports contest; provided,
however, that in-person wagering and wagering conducted on a mobile
device on the outcome of sports contests may be conducted in
accordance with Section 3 of this act.

SECTION 2. AMENDATORY 3A O.S. 2021, Section 280, is
amended to read as follows:

Section 280. The State of Oklahoma through the concurrence of
the Governor after considering the executive prerogatives of that
office and the power to negotiate the terms of a compact between the
state and a tribe, and by means of the execution of the State-Tribal
Gaming Act, and with the concurrence of the State Legislature
through the enactment of the State-Tribal Gaming Act, hereby makes
the following offer of a model tribal gaming compact Model Tribal
Gaming Compact regarding gaming to all federally recognized Indian
tribes as identified in the Federal Register within this state that
own or are the beneficial owners of Indian lands as defined by the
Indian Gaming Regulatory Act, 25 U.S.C., Section 2703(4), and over
which the tribe has jurisdiction as recognized by the Secretary of
the Interior and is a part of the tribe's "Indian reservation" as
defined in 25 C.F.R., Part 151.2 or has been acquired pursuant to 25
C.F.R., Part 151, which, if accepted, shall constitute a gaming
compact between this state and the accepting tribe for purposes of
the Indian Gaming Regulatory Act. Acceptance of the offer contained
in this section shall be through the signature of the chief
executive officer of the tribal government whose authority to enter
into the compact shall be set forth in an accompanying law
or ordinance or resolution by the governing body of the tribe, a
copy of which shall be provided by the tribe to the Governor. No
further action by the Governor or the state is required before the
compact can take effect. A tribe accepting this Model
Tribal Gaming Compact is responsible for submitting a copy of the
Compact executed by the tribe to the Secretary of the Interior for
approval and publication in the Federal Register. The tribe shall
provide a copy of the executed Compact to the Governor. No tribe
shall be required to agree to terms different than the terms set
forth in the Model Tribal Gaming Compact, which is set forth in
Section 281 of this title. As a precondition to execution of the
Model Tribal Gaming Compact by any tribe, the tribe must have paid
or entered into a written agreement for payment of any fines
assessed prior to the effective date of the State-Tribal Gaming Act
by the federal government with respect to the tribe’s gaming
activities pursuant to the Indian Gaming Regulatory Act.

Notwithstanding the provisions of Sections 941 through 988 of
Title 21 of the Oklahoma Statutes, the conducting of and the
participation in any game authorized by the compact

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BOLD FACE denotes Committee Amendments.
Tribal Gaming Compact set forth in Section 281 of this title are lawful when played pursuant to a compact which has become effective.

1. Prior to July 1, 2008, of all fees received by the state pursuant to subsection A of Part 11 of the Model Tribal Gaming Compact set forth in Section 281 of this title:
   a. twelve percent (12%) shall be deposited in the Oklahoma Higher Learning Access Trust Fund, and
   b. eighty-eight percent (88%) of such fees shall be deposited in the Education Reform Revolving Fund.

2. On or after July 1, 2008, of all fees received by the state pursuant to subsection A of Part 11 of the Model Tribal Gaming Compact set forth in Section 281 of this title and Gaming Compact Supplements offered pursuant to Section 280.1 of this title and Section 3 of this act:
   a. twelve percent (12%) shall be deposited in the General Revenue Fund, and
   b. eighty-eight percent (88%) of such fees shall be deposited in the Education Reform Revolving Fund.

Provided, the first Twenty Thousand Eight Hundred Thirty-three Dollars and thirty-three cents ($20,833.33) of all fees received each month by the state pursuant to subsection A of Part 11 of the Model Tribal Gaming Compact set forth in Section 281 of this title and Gaming Compact Supplements offered pursuant to Section 280.1 of this title and Section 3 of this act shall be transferred to the
Section 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 280.2 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Provided that federal laws permit and pursuant to the offer of the Model Tribal Gaming Compact made in Section 280 of Title 3A of the Oklahoma Statutes and the definition of "covered games" in the Model Tribal Gaming Compact codified in Section 281 of Title 3A of the Oklahoma Statutes, which said codified compact offer provides the state may approve additional forms of covered games under said compact by amendment of the State-Tribal Gaming Act and a compacting tribe may operate such additional forms of covered games by written supplement to an existing compact, the state hereby approves, subject to this section, an additional game offering as follows:

"Sports pools" means any in-person wagering and wagering conducted on a mobile device on the outcome of sporting events or other events, other than horse or other animal races.

B. Should a tribe that has compacted with the state in accordance with Sections 280 and 281 of Title 3A of the Oklahoma Statutes elect to accept this offer of an additional covered game and, accordingly, to operate sports pools under the terms of its
existing gaming compact with the state, said tribe shall execute a
supplement to said compact, to provide as follows:

MODEL TRIBAL GAMING COMPACT SUPPLEMENT

Between the [Name of Tribe]

and the STATE OF OKLAHOMA

To be governed in accord with the [Name of Tribe]'s State-Tribal
Gaming Compact ("Compact"), approved by the United States Department
of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
state's offer of additional covered game codified in Section 280.2
of Title 3A of the Oklahoma Statutes, which offer and this
acceptance are subject to the following terms:

Part 1. TITLE

This document shall be referred to as the "[Name of Tribe] and
State of Oklahoma Gaming Compact Sports Pools Supplement (Gaming
Compact Supplement)".

Part 2. TERMS

A. The Tribe hereby memorializes its election to accept the
state's offer of an additional covered game, which offer is codified
in Section 280.2 of Title 3A of the Oklahoma Statutes. The Tribe
further certifies and agrees it shall not offer such additional
covered game unless and until doing so would be legal under federal
law.

B. The Tribe agrees, subject to the enforcement and exclusivity
provisions of its Compact, to pay to the state a fee derived from
sports pool revenues calculated as set forth in paragraph 2 of this subsection. Such fee shall be paid no later than the twentieth day of the month for revenues received by the Tribe in the preceding month; and

1. The fee shall be:
   a. four percent (4%) of the first Five Million Dollars ($5,000,000.00) of monthly net win received by a Tribe in a calendar year from the play of sports pools,
   b. five percent (5%) of the next Five Million Dollars ($5,000,000.00) of adjusted gross revenues received by a Tribe in a calendar year from the play of sports pools, and
   c. six percent (6%) of all subsequent adjusted gross revenues received by a Tribe in a calendar year from the play of sports pools.

Payments of such fees shall be made to the Treasurer of the State of Oklahoma. Nothing herein shall require the allocation of such fees to particular state purposes, including, but not limited to, the actual costs of performing the State's regulatory responsibilities hereunder. "Net win" shall mean all money wagered less prizes paid out and less applicable federal taxes. For all purposes, such payment shall be deemed an exclusivity and fee payment under paragraph 2 of subsection A of Part 11 of the State-Tribal Gaming Compact between the electing Tribe and the State.
C. The Tribe's operation of sports pools pursuant to this Gaming Compact Supplement shall, for all purposes, including enforcement and exclusivity, be treated as subject to and lawfully conducted under the terms and provisions of the Compact.

Part 3. AUTHORITY TO EXECUTE

This Gaming Compact Supplement, to the extent it conforms with Section 280.2 of Title 3A of the Oklahoma Statutes, is deemed approved by the State of Oklahoma. No further action of the State or any state official is necessary for this Gaming Compact Supplement to take effect upon approval by the Secretary of the United States Department of the Interior and publication in the Federal Register. The undersigned tribal official(s) represents that he or she is duly authorized and has the authority to execute this Gaming Compact Supplement on behalf of the Tribe for whom he or she is signing.

APPROVED:

[Name of Tribe]
__________________________ Date: _________
[Title]

C. A tribe electing to accept this additional game offering is responsible for submitting a copy of the executed supplement to the Secretary of the United States Department of the Interior for approval and publication in the Federal Register.
D. Upon approval of a supplement by the Secretary of the United States Department of the Interior, said supplement shall be construed as an acceptance of this offer and a supplement to the Tribe's existing State-Tribal Gaming Compact with the State. Thereafter, sports pools shall be deemed a covered game pursuant to said Compact.

E. The Tribe is entitled to keep an amount equal to state payments from the operation of sports pools. For all purposes, such payment shall be deemed an exclusivity and fee payment under paragraph 2 of subsection A of Part 11 of the State-Tribal Gaming Compact between the electing Tribe and the State.

F. The offer contained in this section shall not be construed to permit the operation of any additional form of gaming by organization licensees or permit any additional electronic or machine gaming within Oklahoma.

G. Notwithstanding the provisions of Sections 941 through 988 of Title 21 of the Oklahoma Statutes, the conducting of and participation in any game authorized pursuant to this section are lawful when played pursuant to a compact supplement which has become effective in accordance with this section.

SECTION 4. This act shall become effective November 1, 2023.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 03/06/2023 - DO PASS, As Amended and Coauthored.